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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

2008 FEB 21 P 4:51

ALONZO AUSTIN

Plaintiff

V.

CITY OF TUSKEGEE

et, al.

Defendants

CASE NUMBER

3:07-CV-754 MHT

Via Certified MailDEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

PLAINTIFF RESPONSE TO COURT ORDER
DOCUMENT #30-1 TO SHOW CAUSE

COMES NOW, Plaintiff, ALONZO AUSTIN, to show cause, why the City of Tuskegee et al, "Motion to DISMISS For Want of Prosecution." Should Not be granted, and as such Plaintiff offers the following:

1. Plaintiff, Motion for Order Compelling disclosure or discovery pursuant to Rule 37 FROM the Defendants are pending before this Honorable Court filed on February 13, 2008.

2. Pursuant to 37(2)(A) after Defendants failed to make it disclosures to Plaintiff, as required by Rule 26(a), the Plaintiff by

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Rule Served Notice upon Defendant's via facsimile letter dated February 8, 2008, also see: attached as exhibit 10(3) to Plaintiff Motion For order Compelling disclosure or Discovery Page 1 OF 7 filed on February 13, 2008.

3. Accordingly, any party may move to compel disclosure and for appropriate sanctions. The Motion must include a certification that the Movant has in good faith conferred or attempted to confer with the party not making the disclosure in an effort to secure disclosures without court action. (Which Plaintiff did).

4. Plaintiff, facsimile letter on February 8, 2008, was written in good faith to secure disclosures without court action from Defendant's, however, instead of Defendant's, tendering its Rule 33 interrogatories responses and its Rule 34 request for production of documents responses to Plaintiff per his request by the February 12th 2008, deadline Defendant's file their Motion to DISMISS for want of prosecution against Plaintiff, on February 11, 2008, in this Court.

5. ON February 13, 2008, Plaintiff filed with this Court its Motion Pursuant to Rule 37 to Compel.

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6. Also on February 13, 2008, this Honorable Court issued an Order (Doc. # ~~30-1~~), upon Defendant's Motion to Dismiss for want of prosecution that Plaintiff is to on or before February 22, 2008, Show Cause, why said Motion should not be granted.

7. ON February 8, 2008, it is an undisputed fact that Plaintiff Served Notice Via facsimile letter to Defendants with his intention to Compel its disclosures on February 13, 2008, unless Same was tendered by February 12, 2008.

8. It is also a fact that Plaintiff filed its Motion for an order Compelling disclosure or Discovery pursuant to Rule 37 on February 13, 2008. and said Motion is still pending with Certification.

9. The Facts show that Defendant's was Served via Facsimile on the 8th of February 2008, and again via U.S. "Mail Certified," on February 13, 2008. twice within a five (5) day period.

IN Conclusion, Defendant's Motion to Dismiss for want of prosecution is Not only UNSupported but it is also Contrary to the aforementioned fact of the Case.

Respectfully Submitted *Alonso Austin*
Alonso Austin, pro se.

Doc 4
~~Alonzo Austin Prose~~
by ~~Alonzo Austin Prose~~
ALONZO AUSTIN
1321 Oliver-Carlisle Rd.
Tuskegee, AL 36083
Ph# (334) 727-5476

CERTIFICATE OF SERVICE

I hereby Certify that I have
Served a copy of the Foregoing
Document upon the Following
CITY OF TUSKEGEE et.al,
% ~~XXX~~ HOLTSFORD GILLIAND HIGGINS HATSON PC,
P.O. Box 4128
Montgomery, AL 36103-4128
by placing same in the U.S. mail
postage Pre paid on February 21, 2008

~~Alonzo Austin Prose~~
by ~~Alonzo Austin Prose~~
ALONZO AUSTIN
1321 Oliver-Carlisle Rd.
Tuskegee, AL 36083
Ph# (334) 727-5476